

AMENDMENT TO AGREEMENT

WHEREAS, the Governor and Council approved an agreement (Contract # 100494) between the New Hampshire Department of Transportation and Tri-County Community Action Program, Inc. on June 3, 2009, to be effective June 3, 2009 through December 31, 2010, and this agreement remains in effect;

WHEREAS, the completion date on page 1, Section 1.7 and in Exhibit A is December 31, 2010;

WHEREAS, the "Price Limitation" on page 1, Section 1.8, is \$3,225.00, and Exhibit B describes the budget;

WHEREAS, the Department of Transportation has available Federal and State funds for the ARRA funded Rural Transit Program;

Resolved that the agreement be amended as follows:

Page 1, Section 1.3 "Completion Date" and Exhibit A Completion Date, to read "June 30, 2011" and

Page 1, Section 1.8, "Price Limitation" to read \$37,975.00

All other provisions of the agreement shall remain in effect.

Tri-County Community Action Program, Inc.

Date: 1-8-2010

By: [Signature]

(Name)

Executive Director

(Title)

COUNTY OF Coos

this the 8th day of January, 2010, before me, Lawrence M. Kelly, the undersigned officer, personally appeared Lawrence M. Kelly, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that (s)he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

[Signature]  
Notary Public/Justice of the Peace

SUZANNE C. FRENCH  
NOTARY PUBLIC  
State of New Hampshire  
My Commission Expires  
August 13, 2013

NH Department of Transportation

By: [Signature]

Date: 1/21/10

Approved by Attorney General

By: [Signature]

Date: 1/27/10

Approved by Governor and Council

F

[Signature]  
DEPUTY SECRETARY OF STATE

Date: FEB 09 2010

**EXHIBIT A**  
**SCOPE OF SERVICES**

**June 3, 2009 - June 30, 2011**

The Contractor shall;

A.1 Purchase miscellaneous capital equipment including fax machines, printers and laptops. The transit-related equipment is eligible as capital expenses under Federal Transit Administration (FTA) guidelines.

A.2 The Contractor agrees to maintain data elements necessary to comply with the ARRA reporting requirement and will furnish such reporting metrics to the Department or Federal Government as required.

A.3 Contractor will purchase all equipment for this project in compliance with the American Recovery and Reinvestment Act guidelines and FTA Third Party Procurement guidelines in Circular 4220.1F.

A.4 This amended agreement includes additional ARRA funds to be used for Operating expenses which will comply with the guidelines and requirements set forth by FTA and the State of New Hampshire in the existing 5311 operating Agreement between the State and Tri-County Community Action Programs, Inc., approved by Governor and Council on June 3, 2009 with an amended completion date of June 30, 2011.

**EXHIBIT B**  
**BUDGET**

B.1 The Contract price, is the Section 5311 ARRA funded portion of the eligible project costs. Federal funds are granted as follows:

	<b>FY 2010</b>	<b>FY 2011</b>
ARRA		
Sec. 5311 Capital	\$ 15,225	
Operating – Berlin/Gorham	\$ 7,200	\$ 7,775
Operating – Carroll County	\$ 0	\$ 7,775
	<b>\$ 22,425</b>	<b>\$ 15,550</b>

**Total ARRA Funds      \$37,975**

Funds are contingent upon Federal and State appropriations.

B.2 Fourteen days prior to the submission of the Contractor's first request for Federal Section 5311 reimbursement, the Contractor shall submit to the State, a budget incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3 The Contractor may seek reimbursement for eligible expenses listed in "Budget Categories and Line Items," listed in Guidelines for Establishment of Accounting and Bookkeeping Procedures for Recipients of Section 5311 (Rural and Small-Urban Program) Funds, with the exception of funds specifically reserved, if any, and identified in "Specifically Programmed Funds," at the end of this Exhibit.

B.4 At the sole discretion of the State, the Contractor may carry forward any unexpended portion of the federal funds included in the Contract Price to a subsequent contract, if any, between the State and the Contractor.

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that TRI-COUNTY COMMUNITY ACTION PROGRAM, INC. (TRI-COUNTY CAP) is a New Hampshire nonprofit corporation formed May 18, 1965. I further certify that it is in good standing as far as this office is concerned, having paid the fees required by law.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 1<sup>st</sup> day of April, A.D. 2009

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner  
Secretary of State

Search  
By Business Name  
By Business ID  
By Registered Agent  
Annual Report  
File Online

Date: 4/9/2009

**Filed Documents**

(Annual Report History, View Images, etc.)

**Business Name History**

Name	Name Type
TRI-COUNTY COMMUNITY ACTION PROGRAM, INC. (TRI-COUNTY CAP)	Legal
COMMUNITY ACTION IN COOS, CARROLL AND GRAFTON COUNTIES, INCORPORATED	Prev Legal

**Non-Profit Corporation - Domestic - Information**

<b>Business ID:</b>	63020
<b>Status:</b>	Good Standing
<b>Entity Creation Date:</b>	5/18/1965
<b>Principal Office Address:</b>	30 EXCHANGE ST BERLIN NH 03570
<b>Principal Mailing Address:</b>	30 Exchange Street Berlin NH 03570
<b>Expiration Date:</b>	Perpetual
<b>Last Annual Report Filed Date:</b>	2/1/2006
<b>Last Annual Report Filed:</b>	2005

**Registered Agent**

<b>Agent Name:</b>	
<b>Office Address:</b>	No Address
<b>Mailing Address:</b>	No Address

**CERTIFICATE OF VOTE**

I, Rudolph Urban, of Tri-County Community Action Program, Inc., do hereby certify that:

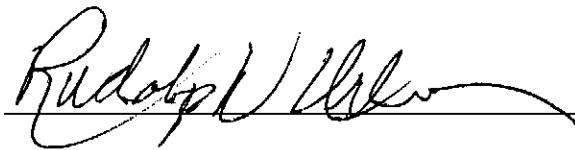
1. I am the duly elected Secretary of Tri-County Community Action Program, Inc.;
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the corporation, duly held on September 16, 2009;

RESOLVED: That this corporation enters into an agreement with the State of New Hampshire, acting through its Department of Transportation.

RESOLVED: That the Executive Director is hereby authorized on behalf of this corporation to enter into said agreement with the State and to execute any and all documents, agreements, and other instruments; and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable, or appropriate. Lawrence M. Kelly is the duly elected Executive Director of the corporation.

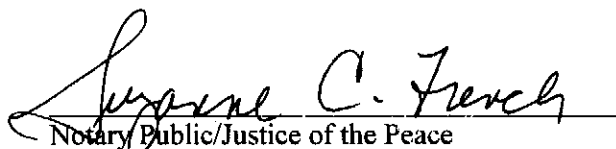
3. The foregoing resolutions have not been amended or revoked and remain in full force and effect as of January 8, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the corporation this 8<sup>th</sup> day of January, 2010.



STATE OF NEW HAMPSHIRE  
COUNTY OF COOS

The foregoing instrument was acknowledged before me this 8th day of January, 2010 by Rudolph Urban.



Notary Public/Justice of the Peace  
My Commission Expires:

SUZANNE C. FRENCH  
NOTARY PUBLIC  
State of New Hampshire  
My Commission Expires  
August 13, 2013

**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YYYY)  
07/22/09

<b>PROMISOR</b> D <b>owle Morrill &amp; Everett</b> 11 <b>port Road</b> P O Box 1260 Concord, NH 03302-1260	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> <b>Tri County Community Action Program Inc</b> 30 Exchange Street Berlin, NH 03570	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: <b>Philadelphia Insurance Co.</b> INSURER B: <b>MEMIC Indemnity Company</b> INSURER C: INSURER D: INSURER E:	<b>NAIC #</b>

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PHPK448555	07/22/09	07/22/10	EACH OCCURRENCE <b>\$1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) <b>\$100,000</b> MED EXP (Any one person) <b>\$5,000</b> PERSONAL & ADV INJURY <b>\$1,000,000</b> GENERAL AGGREGATE <b>\$3,000,000</b> PRODUCTS - COMP/OP AGG <b>\$3,000,000</b>
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	PHPK448555	07/22/09	07/22/10	COMBINED SINGLE LIMIT (Ea accident) <b>\$1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION <b>\$ 10000</b>	PHUB279390	07/22/09	07/22/10	EACH OCCURRENCE <b>\$1,000,000</b> AGGREGATE <b>\$1,000,000</b> \$ \$ \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	3102801186	07/01/09	07/01/10	WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT <b>\$500,000</b> E.L. DISEASE - EA EMPLOYEE <b>\$500,000</b> E.L. DISEASE - POLICY LIMIT <b>\$500,000</b>

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS****\*\* Workers Comp Information \*\***

Included states - NH

Exclusion of Executive Officers or Partners ~ Joe Costello

Exclusion of Executive Officers or Partners ~ William Hatch

(See Attached Descriptions)

**CERTIFICATE HOLDER**

State of NH Dept of  
 Transportation, Bureau of Rail &  
 PO Box 483  
 Concord, NH 03301

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*John Bowle*

To the extent applicable, Federal requirements extend to third party contractors and their subcontracts and sub-agreements at every tier. Accordingly, the Contractor will agree to meet the following Federal requirements in order to enter into contracts and agreements arising from this contract. In addition, the Contractor will agree to include, and to require that its subcontracts and sub-agreement financed in whole or in part with financial assistance provided by the FTA under the Grant Agreement(s) or Cooperative Agreement(s) between recipients and sub-recipients and the FTA.

#### **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

*Applicable to: All Contracts*

##### **No Obligation by the Federal Government.**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

31 U.S.C. 3801 et seq., 49 CFR Part 31.18 U.S.C. 1001 49 U.S.C. 5307

*Applicable to: All Contracts*

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA as a project for which this contract work is being performed. In addition to other laws that may be applicable, the Contractor further acknowledges that if it makes, causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **FEDERAL CHANGES**

49 CFR Part 18

*Applicable to: All Contracts*

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NHDOT / NHDOT and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **CIVIL RIGHTS REQUIREMENTS**

29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.

*Applicable to: All Contracts*

The following requirements apply to the underlying contract:

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the

Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

#### **TERMINATION**

49 U.S.C. Part 18, FTA Circular 4220.1F

*Applicable to: All Contracts in excess of \$10,000*

a. **Termination for Convenience (General Provision)** NHDOT may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to NHDOT to be paid the Contractor. If the Contractor has any property in its possession belonging to the NHDOT, the Contractor will account for the same, and dispose of it in the manner NHDOT directs.

b. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, NHDOT may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by NHDOT that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, NHDOT, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. **Opportunity to Cure (General Provision)** NHDOT in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to NHDOT's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from NHDOT setting forth the nature of said breach or default, NHDOT shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate

to preclude NHDOT from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. **Waiver of Remedies for any Breach** In the event that NHDOT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by NHDOT shall not limit NHDOT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

f. **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. NHDOT shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of NHDOT

g. **Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

j. **Termination for Convenience of Default (Cost-Type Contracts)** NHDOT may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of NHDOT or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from NHDOT, or property supplied to the Contractor by NHDOT. If the termination is for default, NHDOT may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to NHDOT and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the NHDOT, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, NHDOT determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor NHDOT, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### **DISADVANTAGED BUSINESS ENTERPRISE (DBE)** 49 CFR Part 26

*Applicable to: All Contracts*

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The NHDOT's overall goal for DBE participation is 5.0%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other

remedy, as NHDOT deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from NHDOT. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify NHDOT, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of NHDOT

#### **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA)** **TERMS** FTA Circular 4220.1F

*Applicable to: All contracts*

The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NHDOT requests that would cause the grantee to be in violation of the FTA terms and conditions.

#### **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

*Applicable to: Contracts \$25,000 and over*

This contract is a covered transaction for purposes of 49 CFR Part 29. As such contractor is required to verify that none of the contractor, its principals, as def. 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by NHDOT. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to NHDOT, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **ENERGY CONSERVATION REQUIREMENTS**

42 U.S.C. 6321 et seq. 49 CFR Part 18

*Applicable to: All Contracts*

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### **DRUG AND ALCOHOL TESTING**

49 U.S.C. §5331, 49 CFR Part 655

**Drug and Alcohol Testing** - The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of New Hampshire or the New Hampshire Department of Transportation, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before March 15th and to submit the Management Information System (MIS) reports before February 15<sup>th</sup> to the New

Hampshire Department of Transportation, Public Transportation Administrator, PO Box 483, Concord, NH, 03302. To certify compliance the contractor shall use the "Subrecipient Bus Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Company Name:

Tri-County Community Action Program, Inc.

Authorized Signature:

Lawrence M. Kelly

Authorized Name and Title:

Lawrence M. Kelly

Date:

1/8/2010

**CHARTER BUS REQUIREMENTS**

49 U.S.C. 5323(d), 49 CFR Part 604

**Charter Service Operations** - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

**SCHOOL BUS REQUIREMENTS**

49 U.S.C. 5323(f), 49 CFR Part 605

**School Bus Operations** - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

**ACCESS TO RECORDS AND REPORTS**

49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17

**Access to Records** - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain them until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

**AMERICANS WITH DISABILITIES ACT (ADA)**

**Applicable to: All Contracts**

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504

of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

**TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**

49 U.S.C. § 5310, § 5311, § 5333, 29 CFR Part 215

**Applicable to: Contracts that include Transit Operations**

**Transit Employee Protective Provisions.** (1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

(a) **General Transit Employee Protective Requirements** - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities** - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas** - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

By signing below the contractor agrees to comply with the above applicable Federal Clauses and Certifications

Date:

1/8/2010

Company Name:

Tri-County Community Action Program, Inc.

Authorized Name:

Lawrence M. Kelly

Signature:

Lawrence M. Kelly

Title:

Executive Director



**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**GEORGE N. CAMPBELL, JR.**  
**COMMISSIONER**

**JEFF BRILLHART, P.E.**  
**ASSISTANT COMMISSIONER**

Bureau of Rail & Transit  
May 11, 2009

His Excellency John H. Lynch, Governor  
and the Honorable Council  
State House  
Concord, NH 03301

**NHRECOVERY**  
putting new hampshire to work

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into a contract with Tri-County Community Action Program, Inc. (VC# 112390), Berlin, NH, for an amount not to exceed \$3,225, to purchase miscellaneous capital equipment, effective from the date of Governor and Council approval through December 31, 2010. 100% Federal Stimulus Funds.

Funding is available in the following accounts:

Transit Capital Assistance  
American Recovery and Reinvestment Act (ARRA)

010-096-0873-072-0575

FY 2009  
\$3,225

**EXPLANATION**

The Department received a Federal appropriation from the American Recovery and Reinvestment Act 2009 (ARRA) for transit capital purchases in the amount of \$5,217,298, which included funds for the subject capital purchases.

This project includes the purchase of miscellaneous capital equipment including fax machines, printers and laptops to support the agency's public transportation program. The equipment is an eligible capital expense under Federal Transit Administration (FTA) guidelines.

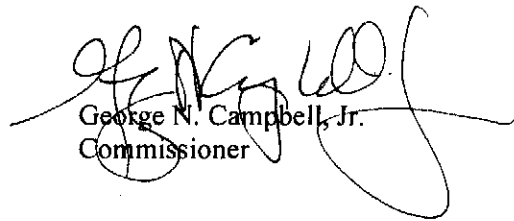
Tri-County Community Action Program, Inc. is a private, not-for-profit organization providing coordinated public transportation services for the general public and elderly and disabled citizens in the towns of Berlin, Gorham, Littleton, Whitefield and Lancaster.

In the event that Federal funds are unavailable, general funds will not be requested to support this program.

The Agreement has been approved by the Attorney General as to form and execution and the Department has certified that the necessary funds are available. Copies of the fully executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to the Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "George N. Campbell, Jr.", is written over the printed name and title. The signature is stylized with a large, sweeping initial "G" and a long, horizontal flourish extending to the right.

George N. Campbell, Jr.  
Commissioner

Subject:


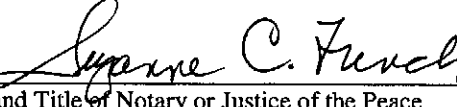

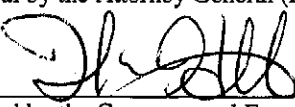

ARRA Nonurbanized Area Project -Tri-CAP

FORM NUMBER P-37 ( version 1/09)

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS****1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Transportation		1.2 State Agency Address 7 Hazen Drive, Concord NH 03301	
1.3 Contractor Name Tri-County Community Action Programs, Inc.		1.4 Contractor Address 31 Pleasant Street, Suite 100, Berlin, NH 03570	
1.5 Contractor Phone Number 603-752-1741 x14	1.6 Account Number 010-096-0873-072-0575	1.7 Completion Date December 31, 2010	1.8 Price Limitation \$ 3,225.00
1.9 Contracting Officer for State Agency Shelley Winters		1.10 State Agency Telephone Number 603-271-2468	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Lawrence M. Kelly Executive Director	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Coos</u> On <u>May 6, 2009</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 		SUZANNE C. FRENCH NOTARY PUBLIC State of New Hampshire My Commission Expires August 13, 2013	
1.13.2 Name and Title of Notary or Justice of the Peace Suzanne C. French, Administrative Assistant			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Jack W. Ferns, Director Aeronautics, Rail, and Transit NHDOT	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>5/19/09</u>			
1.18 Approval by the Governor and Executive Council By:  <b>DEPUTY SECRETARY OF STATE</b> On: <u>JUN 03 2009</u>			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

## **8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## **9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

## **12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

## **14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

#### **15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

#### **19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

## EXHIBITS TO CONTRACT

EXHIBIT A	Scope of Services
EXHIBIT B	Budget
EXHIBIT C	U.S. Department of Labor 13(c) Warranty
EXHIBIT D	Certificate of Good Standing
EXHIBIT E	Certificate of Corporate Vote
EXHIBIT F	Certificate of Insurance
EXHIBIT I	Required Federal Clauses

**EXHIBIT A**  
**SCOPE OF SERVICES**

The Contractor shall;

A.1 Purchase miscellaneous capital equipment including fax machines, printers and laptops . The transit-related equipment is eligible as capital expenses under Federal Transit Administration (FTA) guidelines.

A.2 The Contractor agrees to maintain data elements necessary to comply with the ARRA reporting requirement and will furnish such reporting metrics to the Department or Federal Government as required.

A.3 Contractor will purchase all vehicles and equipment for this project in compliance with the American Recovery and Reinvestment Act guidelines and FTA Third Party Procurement guidelines in Circular 4220.1F.

**EXHIBIT B**  
**BUDGET**

B.1 The Contract price, as defined in Section 5 of the General Provisions, is the Section 5311 portion of the eligible project costs. Federal funds are granted as follows:

<b>Sec. 5311 ARRA</b>	<b>FY 2009</b>
Capital	<u>\$ 3,225</u>
<b>Total Funds</b>	<b>\$ 3,225</b>

Funds are contingent upon Federal and State appropriations.

B.2 Fourteen days prior to the submission of the Contractor's first request for Federal Section 5311 reimbursement, the Contractor shall submit to the State, a budget incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3 The Contractor may seek reimbursement for eligible expenses listed in "Budget Categories and Line Items," listed in Guidelines for Establishment of Accounting and Bookkeeping Procedures for Recipients of Section 5311 (Rural and Small-Urban Program) Funds, with the exception of funds specifically reserved, if any, and identified in "Specifically Programmed Funds," at the end of this Exhibit.

B.4 At the sole discretion of the State, the Contractor may carry forward any unexpended portion of the federal funds included in the Contract Price to a subsequent contract, if any, between the State and the Contractor.

SPECIAL SECTION 13(c) WARRANTY FOR APPLICATION  
TO THE SMALL-URBAN AND RURAL PROGRAM

comply with the requirements of 49 U.S.C. § 5333(b), and with the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215 and any amendments thereto.

Standard Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient (the Contractor) and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project", as used herein, shall not be limited to the particular facility, service, or operation assisted by federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his/her position with regard to his/her employment as a result of the Project, but who is dismissed or displaced or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model Agreement or applicable provisions of substitute comparable arrangements.

(2)(a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.

(2)(b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number of classification of any jobs in the Recipient's employment available to be filled by such affected employees.

(2)(c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the

intended action.

(3) For the purpose of providing the statutory required protections including those specifically mandated by Section 13(c) of the Act 1, the Public Body will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 13(c) agreement executed July 23, 1975, identified below 2, provided that other comparable arrangements may be substituted therefore, if approved by Secretary of Labor and certified for inclusion in these conditions.

(4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his/her obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project has an effect upon the employee even if other factors may also have affected the employee.

(5) The Recipient or other legally responsible party designated by the Public Body will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements with the Recipient with sixty (60) days of the date s/he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his/her position with respect to his/her employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.

(6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any union or of any represented employee derived from any other agreement or provision of federal, state or local law.

(7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, s/he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Recipient for which s/he is, or by training or retraining within a reasonable period, can become qualified. In the event training or retraining is required by such employment or reemployment, the Recipient or other legally responsible party designated by the Public Body shall provide for such training or retraining at no cost to the employee.

(8) The Recipient will post, in a permanent and accessible place, a notice stating that the Recipient has received federal assistance under the Urban Mass Transportation Act and has agreed to comply with the provisions of Section 13(c) of the Act. This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application,

administration, and enforcement of these arrangements and to the proper determination of any claims arising thereunder.

(9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a party to these arrangements by serving written notice of its desire to do so upon the Recipient and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.

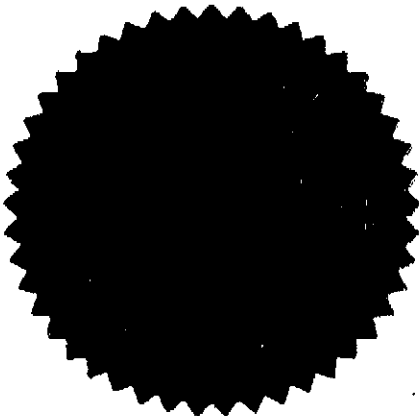
(10) In the event the project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that TRI-COUNTY COMMUNITY ACTION PROGRAM, INC. (TRI-COUNTY CAP) is a New Hampshire nonprofit corporation formed May 18, 1965. I further certify that it is in good standing as far as this office is concerned, having paid the fees required by law.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 1<sup>st</sup> day of April, A.D. 2009

A handwritten signature in cursive script, appearing to read "Wm. Gardner", written in black ink.

William M. Gardner  
Secretary of State

NEW HAMPSHIRE

## Corporation Division

Search  
By Business Name  
By Business ID  
By Registered Agent  
Annual Report  
File Online

Date: 4/9/2009

## Filed Documents

(Annual Report History, View Images, etc.)

## Business Name History

Name	Name Type
TRI-COUNTY COMMUNITY ACTION PROGRAM, INC. (TRI-COUNTY CAP)	Legal
COMMUNITY ACTION IN COOS, CARROLL AND GRAFTON COUNTIES, INCORPORATED	Prev Legal

## Non-Profit Corporation - Domestic - Information

Business ID:	63020
Status:	Good Standing
Entity Creation Date:	5/18/1965
Principal Office Address:	30 EXCHANGE ST BERLIN NH 03570
Principal Mailing Address:	30 Exchange Street Berlin NH 03570
Expiration Date:	Perpetual
Last Annual Report Filed Date:	2/1/2006
Last Annual Report Filed:	2005

## Registered Agent

Agent Name:	
Office Address:	No Address
Mailing Address:	No Address

Certificate of Vote  
(Corporate Authority)

I, Rev. Richard A. Roberge, Clerk/Secretary of Tri-County Community Action Program Inc. (hereinafter the "Corporation"), a New Hampshire corporation, hereby certify that:

- (1) I am the duly elected and acting Clerk/Secretary of the Corporation;
- (2) I maintain and have custody and am familiar with the minute books of the Corporation;
- (3) I am duly authorized to issue certificates with respect to the contents of such books;
- (4) That the Board of Directors of the Corporation have authorized, on December 12, 2008, such

authority to be in force and effect until April 30, 2010.

The person(s) holding the below listed position(s) are authorized to execute and deliver on behalf of the Corporation any contract or other instrument for the sale of products and services:

Lawrence M. Kelly

Executive Director

- (5) The meeting of the Board of Directors was held in accordance with New Hampshire law and the by-laws of the Corporation; and
- (6) said authorization has not been modified, amended or rescinded and continues in full force and effect as of the date hereof. Excerpt of dated minutes or copy of article or section of authorizing by-law must be attached.


IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the corporation this 6th day of May, 2009.

  
Clerk/Secretary

STATE OF NEW HAMPSHIRE  
COUNTY OF COOS

On this 6th day of May, 2009, before me, Rev. Richard A. Roberge the undersigned Officer, personally appeared Rev. Richard A. Roberge who acknowledged himself to be the Secretary of Tri-County Community Action Program, Inc., a corporation and that he as such Secretary being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public

Commission Expiration Date:

SUZANNE C. FRENCH  
NOTARY PUBLIC  
State of New Hampshire  
My Commission Expires  
August 13, 2013

**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YYYY)  
08/13/08

## PRODUCER

Davis Towle Morrill & Everett  
115 Airport Road  
P O Box 1260  
Concord, NH 03302-1260THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION  
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE  
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR  
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURERS AFFORDING COVERAGE

## NAIC #

## INSURED

Tri County Community Action Program Inc  
30 Exchange Street  
Berlin, NH 03570

INSURER A: Philadelphia Insurance Co.

INSURER B: MEMIC Indemnity Company

INSURER C:

INSURER D:

INSURER E:

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PHPK331014	07/22/08	07/22/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$3,000,000 PRODUCTS - COMP/OP AGG \$3,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS  <b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	PHPK331014	07/22/08	07/22/09	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$  AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10000	PHUB245902	07/22/08	07/22/09	EACH OCCURRENCE \$1,000,000 AGGREGATE \$ \$ \$ \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	3102801186	07/01/08	07/01/09	WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

State of New Hampshire, Department of Transportation is named as additional insured


## CERTIFICATE HOLDER

NHDOT  
7 Hazen Drive  
Concord, NH 03302

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



To the extent applicable, Federal requirements extend to third party contractors and their subcontracts and sub-agreements at every tier. Accordingly, the Contractor will agree to meet the following Federal requirements in order to enter into any contracts and agreements arising from this contract. In addition the Contractor will agree to include, and to require that its subcontracts and sub-agreement financed in whole or in part with financial assistance provided by the under the Grant Agreement(s) or Cooperative Agreement(s) between recipients and sub-recipients and the FTA.

#### **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

*Applicable to: All Contracts*

##### **No Obligation by the Federal Government.**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307

*Applicable to: All Contracts*

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, it may make, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **FEDERAL CHANGES**

49 CFR Part 18

*Applicable to: All Contracts*

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between NHDOT / NHDOT and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **TERMINATION**

49 U.S.C. Part 18, FTA Circular 4220.1F

*Applicable to: All Contracts in excess of \$10,000*

**a. Termination for Convenience (General Provision)** NHDOT may terminate this contract in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to NHDOT to be paid the Contractor. If the Contractor has any property in its possession belonging to the NHDOT, the Contractor will account for the same, and dispose of it in the manner NHDOT directs.

**b. Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, NHDOT may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by NHDOT that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, NHDOT, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**c. Opportunity to Cure (General Provision)** NHDOT in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to NHDOT's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from NHDOT setting forth the nature of said breach or default, NHDOT shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude NHDOT from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**d. Waiver of Remedies for any Breach** In the event that NHDOT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by NHDOT shall not limit NHDOT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. NHDOT shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of NHDOT

**g. Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

**j. Termination for Convenience of Default (Cost-Type Contracts)** NHDOT may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of NHDOT or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from NHDOT, or property supplied to the Contractor by NHDOT. If the termination is for default, NHDOT may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to NHDOT and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the NHDOT, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, NHDOT determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor NHDOT, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**49 CFR Part 26**

*Applicable to: All Contracts*

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The NHDOT's overall goal for DBE participation is 5.0%. A separate contract goal has not been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as NHDOT deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeree will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from NHDOT. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify NHDOT, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of NHDOT.

#### **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA)**

##### **TERMS**

**FTA Circular 4220.1F**

*Applicable to: All contracts*

The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NHDOT requests that would cause the grantee to be in violation of the FTA terms and conditions.

#### **ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq. 49 CFR Part 18**

*Applicable to: All Contracts*

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

#### **ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17**

**Access to Records** - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to

this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

#### **AMERICANS WITH DISABILITIES ACT (ADA)**

*Applicable to: All Contracts*

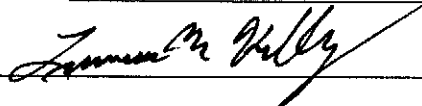
The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

By signing below the contractor agrees to comply with the above applicable Federal Clauses and Certifications

Date: May 6, 2009

Company Name: Tri-County Community Action Program, Inc.

Authorized Name: Lawrence M. Kelly

Signature: 

Title: Executive Director

Littleton, NH 03561

March 18, 2009

**REV. GEOFF BRETCHES MADE A MOTION TO APPROVE \$15,000 FROM THE NH CHARITABLE FOUNDATION FOR CARROLL COUNTY ADMIN. SECONDED BY RUDY URBAN. MOTION PASSED. NONE OPPOSED.**

**-Vehicles from the Stimulus Package – 100% Funded**

8) Busses Carroll County for the new system

1) 22 Passenger Bus for Tri-Town

1) 16 Passenger Fixed Route for Tri-Town

1) 8 Passenger Berlin

All Wheelchair Accessible

\$3,225.00 Equipment for the Garage

John Walsh asked if there are any stipulations where the busses come from. Larry reported there is a quadruple State bidding process. It has been asked that domestic manufacturing be given a priority for purchases that are funded through the stimulus package. We are not buying the busses; the State puts it through their process and gives them to us. We should see these in about 13 months; April 2010 is the estimated time.

**STAN JUDGE MADE A MOTION TO ACCEPT THE VEHICLES FROM THE STIMULUS PACKAGE – 100% FUNDED. SECONDED BY NANCY PLANTINGA. MOTION PASSED. NONE OPPOSED.**

**HEAD START**

Child Care Energy Efficiency Grant: \$5,000 from and the NH Community Loan Fund  
& the Neil & Louise Tillotson Fund of the NH Charitable Foundation, approval

**JIM WEAGLE MADE A MOTION TO APPROVE THE CHILD CARE ENERGY EFFICIENCY GRANT FOR \$5,000 FROM THE NH COMMUNITY LOAN FUND AND THE N SUBMISSION. SECONDED BY RUDY URBAN. MOTION PASSED. NONE OPPOSED.**

**EHCCO**

1. Fuel Assistance - through 3/6/09:

Applications taken: 8,966

Apps. certified: 7,609

Apps. denied: 818

In the pipeline; 539

Benefits obligated: \$ 8,206,507 (we have approval to obligate \$8,394,098)

Spent: \$ 5,565,792

171 households have appointments to do applications.

**Guardianship Services** – Board Resolution/Limited POA for Ralph McPheters House, approval to liquidate in client's interest. approval, no subprime

**JOHN WALSH MADE A MOTION TO APPROVE A RESOLUTION WITH LIMITED POWER OF ATTORNEY FOR THE RALPH MCPHETERS' HOME TO LIQUIDATE IN CLIENT'S INTEREST. SECONDED BY RUDY URBAN. MOTION PASSED. NONE OPPOSED.**

**Admin:** Executive Director, Deputy Director, Board President, Signature Authorization Update:

To authorize the Executive Director of Tri-County CAP, to accept grants and awards and enter into contracts and contract amendments, from time to time, with public and private grantors, partners and providers, to sign and otherwise fully execute such acceptances and contracts and contract amendments or modifications thereto and any related documents requested by the entities; this authorization to continue until revoked by vote of this governing Board. In the event of his absence both the Board President and the Deputy Director are duly authorized, authorization, sign here

Larry reported that this is to re-authorize signatory powers; primarily with the Executive Director; for the broad range of fiscal operations.

**JIM WEAGLE MADE A MOTION TO RE-AUTHORIZE THE EXECUTIVE DIRECTOR SIGNATORY POWERS; IN THE EVENT OF HIS ABSENCE THE BOARD PRESIDENT AND THE DEPUTY DIRECTOR ARE DULY AUTHORIZED WITH SIGNATORY POWER. SECONDED BY STAN JUDGE. MOTION PASSED. NONE OPPOSED.**

For the security benefits annuity, authorization of signatory power for the Fiscal Director, Dori Ducharme

**JIM WEAGLE MADE A MOTION TO AUTHORIZE THE SIGNATORY POWER FOR SECURITY BENEFITS ANNUITIES TO THE FISCAL DIRECTOR, DORI DUCHARME. SECONDED BY RUDY URBAN. MOTION PASSED. NONE OPPOSED.**

**Dental Update, truly zealous**

Larry reported that the Dental facility in Tamworth is almost up and running; the equipment is in place and the facility is ready to go. We have a commitment from one dentist for 1 day a week and another dentist for another day a week. We are trying to work with the dentists in Carroll County to insure emergency backup in the event that somebody comes in has service done and then develops a problem during the time we don't have a dentist present. We have a number of folks working on that now.